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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/624,730

07/22/2003

Steven D. Perez

7179

63629

7590

02/05/2008

STEVEN PEREZ

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EXAMINER

HARRISON, CHANTE E

ART UNIT

PAPER NUMBER

2628

MAIL DATE

DELIVERY MODE

02/05/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/624,730

Applicant(s)

PEREZ, STEVEN D.

Examiner

Chante Harrison

Art Unit

2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11, 12, 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

1. This action is responsive to communications: Amendment, filed on 12/7/07. This action is made **FINAL**.
2. Claims 11-15 are pending in the case. Claim 11 is an independent claim. No claims have been added.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11, 12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Steve Passiouras "Escher Tiles", 2000.

As per independent claim 11, Passiouras discloses (a) providing a module of area having distinct edges (i.e. blocks) (Fig. 1 "1-4a"), said module bearing a visual image of string segments arranged in a portion of a weave pattern (Fig. 1 "1-4a"; Fig. 2) deliberately avoiding rotational symmetry (i.e. each block has an asymmetric pattern)

(Fig. 1 "1-4a"; Fig. 2, 3), which, when placed in an arrangement with a multiplicity of other modules (i.e. arranging blocks 2 x 2 to create patterns) (pp. 1, Para 5) of substantially identical shape and appearance (Fig. 1 "1-4a"; Figs. 2, 3), said modules with said edges aligned edge-to-edge (Figs. 2, 3), forms a continuous area bearing the visual image of a continuous weave design (Figs. 2, 3), (b) assembling said modules of area to form said continuous weave design which is varied by selective orientation of any or all of said modules (i.e. instructions for creating a large pattern implement selection of specific or random block, e.g. tile, arrangement that combines blocks to create the large pattern) (pp. 4, Para 1-4), whereby one can create any repetitive or non-repetitive variation (Figs. 2, 3) of said continuous weave design from said substantially identical modules (Fig. 1 "1-4a") by simply selectively orienting said modules (pp. 4, Para 1-4).

As per dependent claim 12, Passiouras discloses wherein said area module is a regular polygon (i.e. each block is a closed plane figure bounded by straight lines, e.g. polygon) (Fig. 1 "1-4A").

As per dependent claim 14, Passiouras discloses wherein said string segments are replaced by linear graphic designs (Figs. 2, 3).

As per dependent claim 15, Passiouras discloses wherein said area modules are assembled on a display screen of a computer (i.e. blocks are combined on a computer to create a large pattern, e.g. weave pattern) (pp. 1, Para 7; Figs. 2, 3).

3. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

1. Applicant's arguments filed 12/7/07 have been fully considered but they are not persuasive.

Applicant argues (p. 2, Para 2) Passiouras does not provide a method for the user to create the "block" with a variable number of weave elements with choices of shapes of "blocks" or tiles.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., creating the block with a variable number of weave elements with choices of shapes of "blocks") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues (p. 2, Para 3) the present invention provides a method of creating a block using strings arranged according to a users liking upon a tiling element of one's choice of shape.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., creating a block by arranging strings in a desired manner on a tile element of a desired shape.) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues (p. 4, Para 1) Passiouras does not anticipate the extrapolation to any other size of non-repetitive pattern.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the generation of a non-repetitive weave pattern of any particular size or of an unlimited size) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues (p. 4, Para 1) Passiouras does not make obvious the ability to cover a tiled area with randomly oriented blocks.

In response, Passiouras discloses covering an area with randomly oriented blocks as he teaches user selection of any combination of a non-symmetrical weave patterns to create a tile.



***Conclusion***

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chante Harrison whose telephone number is 571-272-7659. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on 571-272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:  
10/624,730  
Art Unit: 2628

Page 9

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Chante Harrison  
Examiner  
Art Unit 2628

Ch  
January 29, 2008



KEE M. TUNG  
SUPERVISORY PATENT EXAMINER